



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 65-40 – Regulations for the Resident Trainee Program for Funeral Service
Department of Health Professions
March 16, 2005

Summary of the Proposed Regulation

The Board of Funeral Directors and Embalmers (board) proposes to amend the Regulations for the Resident Trainee Program (program) in Funeral Service by:

- allowing eligible funeral functionaries who are under contract with a funeral home to supervise funeral trainees,
- requiring that all eligible funeral functionaries have two consecutive years in practice before supervising trainees and
- requiring that these functionaries register with the board to ensure experience requirements are met.

Supervisors will also need to arrange training in pre-need planning and cremation; supervisors whose training sites do not offer these services will be allowed to arrange training in pre-need planning and cremation services at another licensed funeral establishment.

The proposed regulation will also increase, from 35 to 50, the minimum number of funerals that must be performed, and the number of bodies that must be embalmed, during any given 12 month period at funeral establishments that serve as training sites. If a training site does not have the business volume to meet this requirement, trainees will have to seek approval to use more than one training site.

This proposed regulation will also allow resident trainees more discretion in how they manage their training schedule:

- Resident trainees will be able to work for training credit between 20 and 60 hours a week.

- Training requirements will be measured in hours worked rather than in months of ongoing training.
- Resident trainees will have the option of continuing interrupted training with a new supervisor or resuming interrupted training under the direction of their most recent supervisor.
- Resident trainees will be able to attend school full time while they are training.
- Resident trainees will be able to renew their registration for up to a year after it expires and will be able to reinstate their registration, without filling out a new application for registration, for up to three years after training is interrupted.

To accommodate these changes to the program, the board proposes to increase some existing fees and add two new fees to the program's fee structure.

Result of Analysis

The benefits likely exceed the costs for all but one of the changes encompassed by the proposed regulation. There is not enough information to tell whether costs or benefits will dominate for that one proposed change. Detailed analysis can be found in the in the following section.

Estimated Economic Impact

Current regulation allows funeral service licensees, licensed funeral directors and licensed embalmers to supervise registered trainees as long as they are employees of the funeral establishment where training is taking place. The current regulation only requires that supervisors be licensed in one of the allowed fields so newly licensed individuals are just as able to supervise training as individuals who have been licensed for many years. The proposed regulation will loosen the one restriction on supervisors by allowing licensed individuals who are under contract with a funeral establishment, but are not employees, to supervise training at that establishment. The board proposes to loosen this restriction because there are no substantive differences between statutory employees and independent contractors in either the services they perform or their ability to impart knowledge of those services to trainees.

The proposed regulation will also impose a new restriction on supervisors; licensed individuals will be required to have been in practice for two continuous years before they will be

allowed to supervise trainees. The board believes that funeral functionaries with at least that much experience will have been confronted with most or all of the various problems that might arise during an embalming or funeral and will, therefore, be able to pass on the solutions to these problems to their trainees. There appears to be, however, no evidence that a lack of this experience requirement in the past has proved detrimental for funeral trainees or for the public that funeral homes serve. Funeral functionaries who currently serve as supervisors will not have to meet experience requirements but will have to register with the board.

These two regulatory changes, loosening employment requirements and instituting requirements for supervisors' years in practice, will tend to have antipodal economic effects. Allowing independent contractor licensees to supervise trainees will increase the total number of supervisors in the state and, thus, allow trainees greater choice as to where and with whom they train. To the extent that individuals may have wanted to undertake a funeral resident traineeship, but were unable to because the pool of supervisors was too small to allow it, this regulatory change may lead to a larger population of funeral licensees. An increased population of licensees offering funeral services will tend to increase choice and lower costs for consumers.

The greater experience requirements that the board proposes to impose on trainee supervisors will, conversely, tend to decrease the total pool of supervisors and, so, would decrease the choices available to trainees and, ultimately, consumers. It is unclear which of these effects will overwhelm the other. If the number of independent contractors who will now be able to supervise trainees is greater than the number of licensees who have been in practice less than five years and will be unable to gain approval to be supervisors, these regulatory changes are likely to provide a net positive economic benefit to the citizens of the Commonwealth. If, on the other hand, more licensees are denied approval to supervise because of practice requirements than gain the approval under new employment status guidelines, these regulatory changes are likely to affect the citizens of the Commonwealth negatively.

Current regulation requires that funeral trainees participate in an 18 month apprentice-type training program. Trainees currently must work at least 40 hours per week at the funeral home where they are supervised and are prohibited from attending school full time. The board proposes to allow trainees greater freedom to set the pace of their own training by measuring training in hours rather than months. Trainees will be required to complete 3000 hours of

training in not less than 12 months and not more than 48 months. The board also proposes to change work week requirements and repeal schooling restrictions so that trainees may work between 20 and 60 hours per week and have the option of attending school full time while they work in the training program. These changes will benefit trainees who will be able to fit their training to the rest of their life rather than having to mold their life around training restrictions.

The board proposes to revise language in the current language that requires trainees to choose a new supervisor if their training program is interrupted because this language inadvertently prohibits trainees from resuming training with the same supervisor once his interrupted program resumes. There are many reasons that training might be interrupted that have nothing to do with the quality of the program or the willingness of the trainees to continue in it. This change will benefit trainees by allowing them the freedom to choose to continue, or not continue, training with a particular supervisor as they see fit.

Currently, resident trainees must register with the board and renew their registration each year by January 31st. Trainees may renew their registration up to 30 days after that date by paying the renewal fee plus a late fee. Currently, trainees who are more than 30 days late with their renewal must apply for reinstatement of their registration and pay all applicable fees. The board proposes to change the annual renewal date to March 31st of each year and to loosen the renewal standard considerably by allowing trainees to renew their registration late, with payment of the applicable late fee, up to one year from the date that it expired. This will benefit trainees who, for whatever reason, are not timely with their renewal paperwork and will bring policies for funeral trainees into harmony with the policies governing other regulants of the board.

Taken together, the proposed regulatory changes that govern the conduct and registration of trainees are likely to lower the cost of training and encourage more individuals to choose to enter the field of funeral services. In the long run, this should lower the cost of funeral services for the public, if we assume a static customer base, and should help to keep the cost of funeral services level, if we assume a rising customer base. The latter is a more logical assumption given that the average age of Virginia's population is increasing.

In order to meet its non-general fund budget mandate, the board proposes to add two new fees: \$25 for registration of supervisors who have previously not needed to be registered and \$170 for reinstatement of registration. Since the late renewal period is being extended, the board

believes it is appropriate to differentiate between reinstatement fees and renewal fees and to make the reinstatement fee higher, \$170 rather than \$100, to discourage trainees from allowing their registration to lapse for more than a year. The board also proposes to increase the fee for late renewal from \$25 to \$35 and the fee to change supervisors from \$15 to \$25.

Businesses and Entities Affected

Currently 510 funeral homes are licensed and 185 funeral trainees are registered in the Commonwealth. The board does not know exactly how many funeral functionaries currently serve as supervisors but logically that number is probably less than or equal to 185. All of these entities, plus any future trainees or supervisors, will be affected by the proposed regulation.

Localities Particularly Affected

The proposed regulation will affect all localities in the Commonwealth.

Projected Impact on Employment

The effect of the proposed regulation is uncertain since the regulatory changes that directly affect trainees will tend to increase employment for funeral functionaries, the regulatory changes that directly affect supervisors may either increase or decrease training opportunities for trainees and it is unknown which effect will dominate the other.

Effects on the Use and Value of Private Property

To the extent that funeral homes might be able to lower costs by having trainees working on their premises, regulatory action that limits funeral functionaries' ability to serve as supervisors will decrease profits for the funeral homes where they work.

Small Businesses: Costs and Other Effects

There are 350 funeral homes in the Commonwealth that qualify as small businesses. The board does not know if any of these funeral homes currently have funeral trainee programs but believes that most would not hold enough funerals per year to justify taking on trainees. The board believes, therefore, that the proposed regulation is likely to have minimal to no effect on these smaller funeral businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There are likely no alternate regulatory methods that would be less costly while still accomplishing the board's goals.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.